



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 3. DEPARTMENT OF PESTICIDE REGULATION

Toxic Air Contaminants
DPR Regulation No. 06-005

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend section 6860 of Title 3, California Code of Regulations (3 CCR). The proposed regulatory action designates the pesticide chemical sulfuryl fluoride as a toxic air contaminant (TAC) in subsection (a) pursuant to Food and Agricultural Code (FAC) section 14023.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on February 1, 2007. Comments regarding this proposed action may also be transmitted via e-mail <dpr06005@cdpr.ca.gov> or by facsimile transmission at (916) 324-1452.

A public hearing has been scheduled for the time and place stated below to receive oral comments regarding the proposed regulatory changes.¹

DATE: January 31, 2007

TIME: 1:00 p.m.

PLACE: California Environmental Protection
Agency Headquarters Building
Sierra Hearing Room
1001 I Street
Sacramento, California 95814

A DPR representative will preside at the hearing. Persons who wish to speak will be asked to register before the hearing. The registration of speakers will be conducted at the location of the hearing from 12:30 to 1:00 p.m. Generally, registered persons will be heard in the

¹ If you have special accommodation or language needs, please notify DPR. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

order of their registration. Any other person who wishes to speak at the hearing will be afforded the opportunity to do so after the registered persons have been heard. If the number of registered persons in attendance warrants, the hearing officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard. Oral comments presented at a hearing carry no more weight than written comments.

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does not affect small businesses. The regulatory action merely adds sulfuryl fluoride to the TAC List in section 6860(a) and does not restrict or further regulate use of the chemical by businesses. Pursuant to FAC section 14023(e), the need for, and appropriate degree of, control measures for a pesticide listed as a TAC pursuant to FAC section 14023(d) shall be determined by DPR in consultation with the Office of Environmental Health Hazard Assessment (OEHHA), the Air Resources Board (ARB), and the air pollution control districts or air quality management districts in the affected counties. If a need for control measures is determined for sulfuryl fluoride, the proposed control measures will be promulgated in a separate regulatory action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

FAC section 14021 defines a TAC as "an air pollutant that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health." As mandated by FAC section 14022, DPR, in consultation with OEHHA and ARB, evaluates the health effects of pesticides which may be, or are, emitted into the ambient air of California. FAC sections 14021-14022 describe this evaluation process. Upon completion of this evaluation, DPR prepares a report on the health effects of the pesticide in question. Pursuant to FAC section 14023, an independent Scientific Review Panel (SRP) reviews this report and submits its written findings to DPR. Within ten days following receipt of the SRP's findings, FAC section 14023(d) requires DPR to "prepare a hearing notice and a proposed regulation which shall include the proposed determination as to whether a pesticide is a toxic air contaminant."

DPR evaluated sulfuryl fluoride and the SRP has reviewed DPR's report "Sulfuryl Fluoride (Vikane®) Risk Characterization Document, June 2005." The SRP recommended in its written findings that the Director initiate regulatory steps to list sulfuryl fluoride as a TAC.

Based upon the results of the evaluation of sulfuryl fluoride, the findings of the SRP, and the criteria in 3 CCR section 6890 for identifying pesticides as a TAC, the Director has declared sulfuryl fluoride to be a TAC. The proposed regulatory action adds sulfuryl fluoride to section 6860(a).

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no savings or increased costs to any state agency will result from the proposed regulatory action.

EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no costs or savings in federal funding to the state will result from the proposed action.

EFFECT ON HOUSING COSTS

DPR has made an initial determination that the proposed action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DPR has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS/BUSINESSES

DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed regulatory action.

AUTHORITY

This regulatory action is taken pursuant to the authority vested by FAC sections 11456 and 14023.

REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 14021 and 14023.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make substantial changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator
Office of Legislation and Regulations
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015
(916) 445-3991

Note: In the event the contact person is unavailable, questions on the substance of the proposed regulatory action may be directed to the following person at the same address as noted above:

Randy Segawa, Agricultural Program Supervisor
Environmental Monitoring Branch
(916) 324-4137

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.

AVAILABILITY OF FINAL STATEMENT
OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

TITLE 5. STATE SUPERINTENDENT
OF PUBLIC INSTRUCTION

NOTICE OF PROPOSED RULEMAKING
AMENDMENT TO CALIFORNIA CODE OF
REGULATIONS, TITLE 5, REGARDING
ALTERNATIVE PAYMENT PROGRAMS —
CHILD CARE AND DEVELOPMENT
PROGRAMS

[Notice published December 15, 2006]

NOTICE IS HEREBY GIVEN that the State Superintendent of Public Instruction (SSPI) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education staff, on behalf of the SSPI, will hold a public hearing beginning at **9:00 a.m. on February 9, 2007**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SSPI requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The SSPI requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Strain, Regulations Coordinator
LEGAL DIVISION
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to regcomments@cde.ca.gov. Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on February 9, 2007**.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SSPI may adopt the proposed regulations substantially as described in this Notice or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to these regulations, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposed regulations.

AUTHORITY AND REFERENCE

Authority: Sections 8261 and 8269, Education Code.
Reference: Section 8208, 8223, 8261, 8265 and 8269, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Department of Education contracts with public and private agencies to provide Alternative Payment type child development programs. Expenditures for these programs fall into one of two general categories: direct payments to child care providers, and administrative and support costs. The amounts of direct payment to providers are limited by regional market rates, and the amounts of administrative and support costs are limited by *Education Code* statutes. The *Budget Act* of 2006–07 changes the method by which the amounts allowed for administrative and support costs are calculated. These regulations will clarify this calculation method and the limits to reimbursement for Alternative Payment contracts, incorporating all relevant aspects from the *Education Code* and the *Budget Act*. This will allow contracts to be finalized, and enable contractors to properly budget and administer their programs.

Reimbursement for administrative and support costs combined for Alternative Payment programs is currently limited to a percentage of the total amount of direct provider payments. The *Budget Act* changes this limit to be no more than a percentage of the total contract amount. These regulations will clarify that the total contract amount for the purpose of determining the allowance for administrative and support means the greater of either the initial maximum reimbursable amount of the contract or the total of direct payments to providers,

including family fees and interest, plus reimbursable administrative and support costs. Reimbursement for Alternative Payment contracts is limited to the lesser of the maximum reimbursable amount of the contract or the amount earned, which consists of provider payments and the allowed administrative and support costs. The proposed regulation purposefully does not cite the maximum percentage specified for administration and support, allowing for the possibility that the percentage could be increased in future years.

These regulations also define restricted and unrestricted income as used with CDE contracts and clarify how this income should be reported.

DISCLOSURES REGARDING THE PROPOSED ACTION

The SSPI has made the following initial determinations:

Mandate on local agencies and school districts: None
Cost or savings to any state agency: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: None

Other non–discretionary costs or savings imposed on local educational agencies: None

Costs or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SSPI is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses within California; or 3) affect the expansion of businesses currently doing business within California.

Effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not affect small businesses because the regulations apply only to school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

The SSPI must determine that no reasonable alternative it considered or that has otherwise been identified and brought to his attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The SSPI invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the content of this regulation should be directed to:

Deborah Lindley, Staff Services Manager
Fiscal and Administrative Services Division
California Department of Education
1430 N Street, Room 2213
Sacramento, CA 95814
Telephone: (916) 324-6611

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Connie Diaz, Regulations Analyst, at (916) 319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SSPI has prepared an Initial Statement of Reasons for the proposed regulation and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation, the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the California Department of Education's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the Regulations Coordinator.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Deborah Lindley, Fiscal and Administrative Services Division 1430 N Street, Room 2213, Sacramento, CA, 95814; telephone, (916) 324-6611; fax, (916) 322-6050. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 8. CALIFORNIA APPRENTICESHIP COUNCIL

NOTICE OF PROPOSED ACTION

NOTICE IS HEREBY GIVEN that the California Apprenticeship Council ("Council"), pursuant to rule-making authority derived from Labor Code section 3071, in order to implement, interpret and make specific section 3073.2 of the Labor Code, proposes to amend Part IV, Section 212.01 in Chapter 2 of Title 8 of the California Code of Regulations ("CCR") concerning industry training criteria.

PUBLIC HEARING

The Council will hold a public hearing on Thursday, February 1, 2007 from 10:00 a.m. to 12:00 p.m. at the Milton Marks Conference Center, Santa Barbara Room, Hiram Johnson State Building, 455 Golden Gate Avenue, San Francisco, California 94102. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest (below). The Council requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action by mail or personal delivery to Glen Forman, Division of Apprenticeship Standards, 455 Golden Gate Avenue, 10th Floor, San Francisco, California 94102. Written comments may also be sent to Aurea Galang (1) via electronic mail to 212comments@dir.ca.gov or (2) via fax to (415) 703-5227. To be considered, written comments must be

received by the Council no later than 5:00 p.m., Monday, January 29, 2007.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations, and the location of public records, may be directed to Aurea Galang at (415) 355-5468. The back-up contact person is Glen Forman at (415) 703-4939. Inquiries regarding the substance of the proposed regulations may be directed to Glen Forman at (415) 703-4939.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Labor Code section 3073.2 authorizes the Council to adopt industry-specific training criteria for use by apprenticeship programs. This rulemaking was adopted unanimously by the Council to amend the regulation which implements this statute — Tit. 8, CCR section 212.01 — to make minor revisions in the internal voting and committee rules by which industry training criteria for apprenticeship programs is established, as follows. No comparable federal regulation or statute exists. Please see the Council's Initial Statement of Reasons for further information.

The proposed amendments to subsection (a) of Regulation 212.01 clarify that the Council may adopt training criteria as established by a particular industry training committee, but is not required to adopt such criteria. The proposed amendments also restrict existing language providing for the Council to adopt training criteria independent of the industry training committee to those situations where the committee cannot establish such criteria. Other language changes have been made to provide for clarity and consistency in terminology.

The proposed amendments to subsection (b)(1) of Regulation 212.01 make the following changes. First, industry training committees are required to be set up for the construction-industry crafts and trades, but for the non-construction industry crafts or trades, setting up the committees is at the discretion of the Chair of the Council. Uniform training criteria in the construction industry trades and crafts is regarded as particularly needed due to controversies and issues in this area. Second, the total number of members needed to form a training committee has been reduced to eight. There has been some difficulty in obtaining the total number of twelve members currently required by the regulation, and eight is considered an adequately large number to constitute the minimum number of members for the

committees. The amendments also allow for a greater number of members, so long as they continue to be appointed in the specified ratios of the various types of representatives involved. Third, clarifying language is being added to explicitly state that committee members shall be appointed from members proposed by apprenticeship programs registered to operate under the Shelley-Maloney Act. Fourth, a procedure and timeline is provided by which the Chair of the Council shall form the training committee with the participation of the subject programs. This also clarifies how committee members will be appointed when the subject programs do not propose a sufficient number of candidates.

The proposed amendments to subsection (b)(2) add a subsection to define what constitutes committee action and what constitutes quorum at a committee meeting.

The proposed amendments to subsection (b)(3) make language changes for purposes of clarity and consistency which do not change the substance of the subsection (*i.e.*, former subsection (b)(2)).

The proposed amendments to subsection (b)(4) make language changes for purposes of clarity and consistency which do not change the substance of the subsection (*i.e.*, former subsection (b)(3)).

The proposed amendments to subsection (b)(5) is changed to provide that the Council may extend the deadline for the committee to formulate industry training criteria, that the Council is to use best efforts to complete its review of criteria submitted by the committee by the second regular Council meeting thereafter, and that if the Council rejects the committee's formulation, it will return the submission with a new deadline for re-submission as well as its written reasons.

The proposed amendments to subsection (c) make language changes for purposes of clarity and consistency which do not change the substance of the subsection.

The proposed amendments to subsection (d) make language changes for purposes of clarity and consistency which do not change the substance of the subsection. They also clarify that programs subject to the statewide minimum training criteria are those approved or proposed for approval under the Shelley-Maloney Act, and do not include programs outside the jurisdiction of the Council.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Council has made the following initial determinations:

- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

- Impact on the creation or the elimination of jobs or business, and the expansion of businesses within the State of California, or effect on small businesses: None. There is no effect on small business because the proposed action creates only changes in the procedure by which the Council establishes uniform industry minimum training criteria for state-registered apprenticeship programs, and does not impose costs.
- Significant effect on housing costs: None.
- Cost impacts on representative private person or business: None. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

FISCAL IMPACTS

- Costs or savings to state agencies or costs / savings in federal funding to the State: None.
- Local Mandate: None.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Other nondiscretionary costs / savings imposed upon local agencies: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Gov't Code section 11346.5(a)(13), the Council must determine that no reasonable alternative it considered or that otherwise has been identified and brought to the attention of the Council would be more effective in carrying out the purpose for which the action is proposed or would be as effective as the proposed action and less burdensome to affected private persons.

The Council invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

An initial statement of reasons and the text ("express terms") of the proposed regulations have been prepared and are available from the contact person named in this notice. The Council will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at the above address.

Rulemaking records may be accessed through the agency's Internet website at www.dir.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Council may adopt the proposed regulations substantially as described in this notice. If the Council makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Council adopts the regulations as revised. Any such modifications will also be posted on the Council's website.

Please send requests for copies of any modified regulations to the attention of the contact person(s) listed above. The Council will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

TITLE 18. STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization proposes to amend Regulation 1571, *Florists*, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales for the delivery of flowers, wreaths, etc. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on February 1, 2006. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by February 1, 2006.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Regulation 1571, *Florists*, was first adopted as Ruling 42 in 1933 to explain the application of tax to tradi-

tional sales of floral arrangements where one florist accepts the order and instructs another florist to make the delivery. The regulation was amended in 1971 to clarify the measure of tax, but the manner in which tax applies has remained the same since 1933. Currently, Regulation 1571 provides that tax applies to amounts charged by California florists for the delivery of flowers, wreaths, etc., regardless of whether another florist fills the order or the location where the flowers, wreaths, etc. are delivered. Tax does not apply to amounts received by California florists for making deliveries in California pursuant to instructions received from other florists. Without the provisions of Regulation 1571, florists would be subject to tax just like other retailers. Regulation 1620, *Interstate and Foreign Commerce*, would apply to sales for delivery outside of California; Regulation 1684, *Collection of Use Tax by Retailers*, would apply to out-of-state sales for delivery in California; and Regulation 1706, *Drop Shipments*, would apply to California florists who deliver flowers, wreaths, etc. in California pursuant to instructions from other florists.

The application of tax to orders taken by California florists for the delivery of flowers, wreaths, etc. outside California was discussed in two separate cases heard by the Board in March 2002 and February 2006, which were decided in favor of the taxpayers. Both cases involved taxpayers located in California that sold flowers exclusively through their Web sites and toll-free telephone numbers. In the first case, the taxpayer did not normally use a floral delivery association to fulfill and deliver orders. Instead, the taxpayer forwarded orders to: (1) growers who combined their own flowers with accessories provided by the taxpayer and shipped the arrangements by common carrier; or (2) packers who prepared the arrangements using flowers and accessories provided by the taxpayer and shipped the arrangements by common carrier. In the second case, the taxpayer used a floral delivery association; however, the taxpayer sent all its orders to other florists for fulfillment and delivery, and did not fulfill any orders itself.

In both cases, the taxpayers pointed out that the current rules for florists were developed for florists who operated traditional flower shops and conducted transactions for the delivery of flowers, wreaths, etc. through a florist delivery association. Because these taxpayers did not fit the traditional business model that Regulation 1571 was promulgated to address, these Internet-based retailers of flowers argued that they should not be considered "florists" for purposes of applying Regulation 1571. Rather, the taxpayers believed that their sales for out-of-state delivery should be reported under the standard rules for transactions in interstate and foreign commerce provided in Regulation 1620. The Board found in favor of both taxpayers and subsequently de-

termined that Regulation 1571 should be amended to reflect the results reached in those decisions.

Regulation 1571 is amended to define "florist" to mean a retailer who conducts transactions for the delivery of flowers, wreaths, etc. through a florist delivery association, unless that retailer does not fulfill other florists' orders for the delivery of flowers, wreaths, etc. Florists who meet this definition would continue to report their sales as they do under the current provisions of Regulation 1571, while retailers of flowers, wreaths, etc. who do not meet the definition would report tax just like other retailers. It is intended that the current tax treatment of traditional florists not be affected by the amendment.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7), the State Board of Equalization made an initial determination that the adoption of the amendments to Regulation 1698 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed amendment to this regulation may affect small business.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1571 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6012 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed rule should be directed to: Mr. Bradley Heller, Senior Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082, email Bradley.Heller@boe.ca.gov. Telephone: (916) 324-2657; FAX: (916) 323-3387.

Written comments for the Board's consideration, requests to present testimony, bring witnesses to the public hearing and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, at P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080, email Diane.Olson@boe.ca.gov. Telephone: (916) 322-9569, FAX (916) 324-3984.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacra-

mento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT
OF REASONS

The final statement of reasons will be made available on the Internet at the Board's Web site following its public hearing of the proposed regulation. It will also be available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 22. DEPARTMENT OF AGING

**AMENDMENT TO TITLE 22. CALIFORNIA
CODE OF REGULATIONS REGARDING AREA
PLANS — ALLOCATION, USE AND
TRANSFER OF FEDERAL FUNDS**

**DIVISION 1.8. CALIFORNIA DEPARTMENT
OF AGING**

The California Department of Aging (Department) proposes to adopt the regulatory action described in the Informative Digest after considering all comments, objections or recommendations regarding the proposed action.

HEARING

Any person interested may present statements or arguments orally or in writing relevant to the proposed

regulation at a public hearing to be held on Tuesday January 30, 2007, as follows:

DATE — January 30, 2007
California Department of Aging
1300 National Drive, Suite 200
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

WRITTEN COMMENT PERIOD

Any interested party may submit written comments on the proposed action. The written comment period closes at 5:00 p.m. on January 30, 2007. Comments must be received by that time at the California Department of Aging, Office of Legal Services, 1300 National Drive, Suite 200, Sacramento, California 95834.

The Department, upon its own motion or at the instance of any interested party, may adopt the proposal substantially as described or may modify the proposal if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify at the hearing, or who submit written comments during the public comment period, or who request notification of any changes to the proposal. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulation and the Initial Statement of Reasons are available from the office listed below. This Notice, the Initial Statement of Reasons, and the text of the proposed regulation are available on the internet at <http://www.aging.ca.gov>. Additionally, all the information that the Department considered as the basis for the proposed regulation (i.e. rulemaking file) is available for public review at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT

California Department of Aging
Long-Term Care and Aging Services Division
1300 National Drive, Suite 200
Sacramento, California 95834
Johnna Meyer
TELEPHONE: (916) 419-7557
FACSIMILE: (916) 928-2509
E-MAIL: jmeyer@aging.ca.gov

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This regulation interprets and makes specific Sections 3025(a)(2)(C), 3028, 3030a, 3030s-1, and 3058a of Title 42 of the United States Code and Sections 9100, 9112, and 9719.5 of the Welfare and Institutions Code regarding the allocation, use, and transfer of federal funds to the area agencies on aging (AAA).

The Department is responsible for setting consistent statewide policy for the prudent use of Older Americans Act (OAA) program funds. The broad objective of this proposal is to ensure that funds allocated to AAAs for OAA services are spent in a timely and efficient manner for purposes intended by Congress and as required by federal law. The proposal will remove a potential incentive for AAAs to hold on to funds during one fiscal year to build up cash reserves for future fiscal years for uses other than direct services.

Pursuant to federal law, the Department, in consultation with the AAAs, developed the Intrastate Funding Formula (IFF) for the allocation of federal and state funds to the AAA for programs provided under Title III of the federal OAA. The Department uses the IFF identified in Section 9112 of the Welfare and Institutions Code to allocate funds for most Title III Older Americans Act programs. The Department uses the formula identified in Section 9719.5 of the Welfare and Institutions Code to allocate funds to the AAAs for the Ombudsman Program under Titles III B and VII of the OAA. These funds are allocated to the AAAs in an annual contract that terminates on June 30 of each fiscal year.

Allocation of Unexpended Funds

Ongoing OAA Programs. This proposal will dictate how the Department will re-allocate federal funds that have been allocated to an AAA in a state fiscal year contract, but have not been spent or encumbered by the AAA on services provided by June 30 of the same fiscal year. The regulation will require those funds to revert back to the Department to be re-allocated separately from baseline funds to all AAAs in accordance with the formula used for the original allocation. The regulation

will limit the use of the re-allocated funds to specified purposes.

New OAA Programs. The proposal provides an exception to the general rule requiring the Department's use of the formula in circumstances where the funds are re-allocated to AAAs for new OAA programs. The proposed regulation will authorize the Department to re-allocate unexpended and unencumbered funds back to an AAA in a subsequent fiscal year for limited purposes only. The exception will only be available for the first four years following the enactment of the program. The purpose of this exception is to allow the AAA sufficient time and resources to successfully implement the new program.

Allocation of Audit Funds

Current regulations do not specify a method for allocating Title III and VII funds, which have been recovered from an AAA as a result of a fiscal audit determination and resolution. The proposed regulation will specify that these funds shall be re-allocated in accordance with the formula used for the original allocation. The re-allocated funds shall not be used to increase an AAA baseline allocation and shall be used for specified purposes only.

Allocation of Supplemental Federal Funds

The Administration on Aging often provides supplemental funds to the Department as part of its federal reallocation process. Current regulations do not specify the method of allocation of these supplemental Title III and Title VII program funds. The proposed regulation will specify that these funds will be allocated in accordance with Section 9112 or Section 9719.5 of the Welfare and Institutions Code. Supplemental funds, which are not expended or encumbered by June 30 of the same fiscal year, shall revert back to the Department and be re-allocated to all AAAs in accordance with the formula used for the original allocation. The re-allocated funds shall not be used to increase an AAA baseline allocation and shall be used for specified purposes only.

Use of Federal Funds

Current regulations do not specify the allowable purposes for which AAAs can use unexpended or unencumbered Title III and Title VII baseline and supplemental funds, or funds recovered from an AAA as a result of a fiscal audit determination and resolution. The proposed regulation will formally adopt the Department's long-standing practice of restricting the use of these funds to the following: 1) purchase of equipment which enhances the delivery of services to the eligible services population; 2) home and community-based projects, which are approved in advance by the Department, and are designed to address the unmet needs of eligible service population identified in the area plan and 3) innovative pilot projects, which are approved in ad-

vance by the Department, and are designed for the development or enhancement of a comprehensive and coordinated system of services.

LOCAL MANDATE STATEMENT

This proposed regulation imposes a mandate on local agencies but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Government Code, Section 17500.

FISCAL IMPACT

1. Costs or Savings to State Agencies: None.
2. Cost to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: None.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The Department has determined that there is no impact on small businesses as a result of filing this regulation because these regulations are only applicable to state and county agencies.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

The Department adopts this regulation under the authority granted in Section 9105 of the Welfare and Institutions Code. Subject regulations implement and make specific 42 U.S.C. 3025(a)(2)(C), 42 U.S.C. 3028, 42 U.S.C. 3030a, 42 U.S.C. 3030s-1, 42 U.S.C. 3058a, and Welfare and Institutions Code Sections 9100, 9112 and 9719.5.

REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person	Johnna Meyer	(916) 419-7557
Backup:	Geri Baucom	(916) 928-2723

TITLE 22. DEPARTMENT OF HEALTH SERVICES

ACTION: Notice of Proposed Rulemaking
Title 22, California Code of Regulations

SUBJECT: Dental Benefits, **R-36-02**

PUBLIC PROCEEDINGS

Notice is hereby given that the California Department of Health Services will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments or contentions (all of which are hereinafter referred to as comments) relevant to the action described in this notice.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Title XIX of the Social Security Act is a federal/state entitlement program that pays for medical assistance

for certain individuals and families with low incomes and resources. This program, known as Medicaid, became law in 1965 as a cooperative venture jointly funded by the federal and state governments to assist states in furnishing medical assistance to eligible needy persons. California's Medicaid program is called the Medi-Cal Program and is administered by the California Department of Health Services (Department).

Welfare and Institutions (W&I) Code, sections 10725 and 14124.5 authorizes the director of the Department to adopt, amend or repeal regulations as necessary and proper to carry out the purposes and intent of the statutes governing the Medi-Cal Program. W&I Code Section 14132 sets forth the Medi-Cal schedule of benefits that includes dental services. The Department's Medi-Cal Dental Services Program (Program) is responsible for the delivery of dental services to eligible Medi-Cal beneficiaries.

California State Senate Bill 456 (Chapter 635, Statutes of 2001) added Division 110 (commencing with section 130300) to the Health and Safety (H&S) Code and is known as the Health Insurance Portability and Accountability Act (HIPAA) of 2001. H&S Code section 130301(f) provides that federal HIPAA rules directly apply to state and county departments that provide health coverage, health care, mental health services, and alcohol and drug treatment programs. Additionally, H&S Code section 130301(h) provides that the implementation of HIPAA shall be accomplished as required by federal law and regulations. H&S Code Section 130301(c) further provides that "administrative simplification is a key feature of HIPAA" requiring the development of uniform standards for the coding and transmission of claims. These provisions of the H&S Code subject the Department to federal HIPAA rules and regulations for the implementation of uniform standard code sets.

The federal Health Insurance Portability and Accountability Act of 1996, specifically 45 Code of Federal Regulations (CFR), Subpart J, Section 162.1002 adopts as the standard medical data code set, the Code on Dental Procedures and Nomenclature, as maintained and distributed by the American Dental Association (ADA), for dental services. This provision requires the Program to convert from the use of three-digit local procedure codes, which are unique to California, to the national standard Current Dental Terminology (CDT) procedure codes as approved by the ADA. The current version of these codes is called CDT-4. These procedure codes shall be used by the Program, Delta Dental of California (the fiscal intermediary for the Program) and dental providers for the identification and billing of dental services provided to Medi-Cal beneficiaries.

The conversion from the three-digit local codes to the national standard CDT procedure codes mandated

by HIPAA is not simply a straight one to one conversion. Currently there are 224 three-digit local procedure codes that cover the benefits of the Program. However, there are 357 national standard CDT procedure codes that will cover the benefits of the Program. The difference between the number of three-digit local procedure codes and the number of national standard CDT procedure codes for the same benefits can be attributed to these different methods of code conversion:

- One three-digit local procedure code is converted to one CDT procedure code, or
- One three-digit local procedure code is converted to two or more CDT procedure codes, or
- Two or more three-digit local procedure codes are converted to one CDT procedure code, or
- A CDT procedure code has no three-digit local procedure code equivalent.

The Program has not undergone an exhaustive procedure code and dental criteria revision since it was implemented some 30 years ago. In that time, dental procedures have evolved to meet advancements in technology and new requirements for standards of dental practice. During the three-digit local procedure code to CDT procedure code conversion process the dental criteria for each procedure has been carefully examined and modified or replaced to meet these advancements and requirements.

The revisions to the dental criteria include updated frequency and/or time limitations for dental procedures and documentation requirements that providers shall meet in order to obtain prior authorization and/or payment for dental procedures. The goal of these and other changes to the dental criteria is to make the criteria easy to understand for providers (hence facilitating beneficiary care), to reduce bureaucratic hurdles faced by providers (such as redundant submission requirements), to enhance the integrity of the program against fraud and abuse, and to update the Program to meet the current standards of dental practice.

Provider and beneficiary stakeholder groups provided input to the Department during the development of these revised dental criteria. These stakeholders included dentists belonging to the California Dental Association (CDA), non-dentist representatives for the CDA, and beneficiary representatives from the following organizations: Child Health and Disability Prevention — Sacramento, Consumer Center for Health Education and Advocacy, Dental Health Foundation, Health Consumer Action Center, Health Rights Hotline, Maternal and Child Health Access — Los Angeles, National Health Law and Western Center for Law and Poverty.

W&I Code, section 14133.9 requires the Department to publicize and continue to develop its list of objective

medical criteria that guide the professional judgment of Department consultants in their decisions as to whether a service is medically necessary and should be authorized. The Manual of Criteria for Medi-Cal Authorization (MOC), revised April 15, 2004, which is incorporated by reference into Title 22, California Code of Regulations (CCR), Section 51003, is the method by which the Department meets this requirement. Chapter 8.0 of the existing MOC is dedicated to the dental criteria. However, this chapter of the MOC is poorly organized and contains provisions duplicative to those found in Title 22, CCR, section 51307 — Dental Services.

This regulatory action will: implement the national standard CDT codes as mandated by HIPAA; update the dental criteria associated with the national standard CDT procedure codes; assure that the Program meets current standards of dental practice; eliminate duplication between the CCR section 51307 and the dental criteria section of the MOC (incorporated by reference in CCR section 51003(e)); and locate all Medi-Cal dental criteria in one location for the regulated public.

This regulatory action specifically accomplishes the following:

- Amends CCR section 51003(e) with a revision date for the MOC,
- Repeals Chapter 8.0 of the MOC, which is incorporated by reference in CCR section 51003(e),
- Repeals CCR section 51307 and relocates appropriate provisions under newly adopted Chapter 8.1 of the MOC,
- Repeals CCR section 51506.2 and relocates any appropriate provisions under newly adopted Chapter 8.1 of the MOC,
- Adopts a new Chapter 8.1 of the MOC, which is incorporated by reference in CCR section 51003(e), and includes revised criteria for the following 12 major dental procedure categories:
 - Diagnostic Procedures (D0100–D0999)
 - Preventive Procedures (D1000–D1999)
 - Restorative Procedures (D2000–D2999)
 - Endodontic Procedures (D3000–D3999)
 - Periodontal Procedures (D4000–D4999)
 - Prosthodontic (Removable) Procedures (D5000–D5899)
 - Maxillofacial Prosthetic Procedures (D5900–D5999)
 - Implant Service Procedures (D6000–D6199)
 - Fixed Prosthodontic Procedures (D6200–D6999)
 - Oral and Maxillofacial Surgery Procedures (D7000–D7999)
 - Orthodontic Procedures (D8000–D8999)

- Adjunctive Service Procedures (D9000–D9999), and
- Includes under adopted Chapter 8.1 of the MOC, a revision to the existing HLD Index Form, (Handicapping Labiolingual Deviation (HLD) Index), DC016 (09/97) and an incorporation by reference of the Justification of Need For Prosthesis Form, DC054 (10/05).

AUTHORITY

Sections 10725, 14105, 14124.5, 14132.22, 14132.5 and 14133, Welfare and Institutions Code; and Section 1267.7, Health and Safety Code.

REFERENCE

Sections 14053, 14064, 14081, 14087, 14088, 14088.16, 14088.2, 14103.6, 14105.12, 14132, 14132.22, 14132.25, 14132.5, 14132.42, 14132.8, 14133, 14133.1, 14133.25 and 14133.3, Welfare and Institutions Code; *Jeneski v. Meyers* (1984) 163 Cal. App.3d 18, 209 Cal. Rptr. 178; *Duran v. Belshé*, San Diego County Superior Court Case No. 674204, (1995); and *Fresno Community Hospital and Medical Center v. State of California, et al.*, Fresno County, Superior Court Case No. 555694–9 (1996).

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on February 2, 2007, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1–800–735–2929, if you have a TDD; or 1–800–735–2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand–delivered to the Office of Regulations, Department of Health Services, MS 0015, 1501 Capitol Avenue, P.O. Box 997413, Sacramento, CA 95899–7413. It is requested but not required that written comments sent by mail or hand–delivered be submitted in triplicate; or
2. By fax transmission: (916) 440–7714; or

3. By email to regulation@dhs.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier “R–36–02” in the subject line to facilitate timely identification and review of the comment), or
4. By using the “Making Comments on DHS Regulations” link on the Department website at <http://www.applications.dhs.ca.gov/regulations/>.

All comments, including email or fax transmissions, should include the author’s name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

INQUIRIES

Inquiries regarding the substance of the proposed regulations described in this notice may be directed to Brian Kennedy, D.D.S., Dental Consultant of the Medi–Cal Dental Services Branch at (916) 464–1206.

All other inquiries concerning the action described in this notice may be directed to Ben Carranco of the Office of Regulations at (916) 440–7766, or to the designated backup contact person, Lynnette Cordell, at (916) 650–6827.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation package identifier, R–36–02.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the proposed regulations, all the information upon which the proposed regulations are based, and the text of the proposed regulations. The Office of Regulations, at the address noted above, will be the location of public records, including reports, documentation, and other material related to the proposed regulations (rulemaking file). In addition, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations.

Materials regarding the action described in this notice (including this public notice, the regulation text, and the initial statement of reasons) that are available via the Internet may be accessed at <http://www.applications.dhs.ca.gov/regulations/> and then clicking on the “Select DHS regulations” button.

In order to request a copy of this public notice, the regulation text, and the initial statement of reasons be mailed to you, please call (916) 440-7695 (or California Relay at 711/1-800-735-2929), or email regulation@dhs.ca.gov, or write to the Office of Regulations at the address noted above. Upon specific request, these documents will be made available in Braille, large print, and audiocassette or computer disk.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: The direct total cost to local agencies or school districts that must be reimbursed pursuant to Section 17561 of the Government Code: None
- B. Fiscal Effect on State Government: The direct cost or savings to any state agency: None — cost neutral.
- C. Fiscal Effect on Federal Funding of State Programs: The direct cost to the federal government via matching funds: None — cost neutral.
- D. All cost impacts, known to the Department at the time the notice of proposed action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school

districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

The Department has determined that the regulations would affect small business.

The Department has determined that the regulations will have no impact on housing costs.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Linda Tudor, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 440-7697 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten business days prior to a public hearing.

GENERAL PUBLIC INTEREST

BOARD OF PODIATRIC MEDICINE

Notice of Proposed Regulatory Action

Change of Location for Public Hearing

The California Regulatory Notice Register dated November 3, 2006, indicated that the Board of Podiatric Medicine was proposing a regulation change that would amend 16 CCR 1399.664, Review of National Board Applications; Processing Time.

The Board of Podiatric Medicine will conduct a public hearing on this proposed regulation on February 2, 2007, at a different location than stated in the original notice. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Kathleen Cook in this Notice, must be received by the board at its office not later than 5:00 p.m., on January 31, 2007, or must be received by the board at the hearing.

The new hearing location is:

Board of Podiatric Medicine, Board Meeting
Crowne Plaza Hotel
17941 Von Karman Avenue
Irvine, California 92614

The hearing will begin at 10:00 a.m.

For additional information, please contact:

Name: Kathleen Cook
Board: Board of Podiatric Medicine
Address: 1420 Howe Avenue, Suite 8
Telephone No.: 916-263-0315
FAX No.: 916-263-2651
E-mail Address: Kathleen_Cook@dca.ca.gov

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication December 15, 2006
CESA CONSISTENCY DETERMINATION FOR
Freeport Regional Water Project
Sacramento and San Joaquin Counties

The Department of Fish and Game ("Department") received a notice on November 17, 2006 that the Freeport Regional Water Authority ("FRWA") proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected

by the California Endangered Species Act ("CESA"). This project consists of the construction and operation of: a new intake facility on the Sacramento River near the community of Freeport, a new large-diameter pipeline from the intake facility to the Folsom South Canal, a new water treatment plant, a new large-diameter pipeline from the Folsom South Canal to the East Bay Municipal Utility District's Mokelumne Aqueducts, and two pumping stations between the Folsom South Canal and Mokelumne Aqueducts to convey the water.

The U.S. Fish and Wildlife Service, on December 10, 2004, issued to the U.S. Bureau of Reclamation ("BOR") a no jeopardy federal biological opinion (1-1-04-F-0224) which considers the Federally and State threatened giant garter snake (*Thamnophis gigas*) and Delta smelt (*Hypomesus transpacificus*), and authorizes incidental take of the species and their habitats. The National Marine Fisheries Service, on December 27, 2004, issued to the BOR a no jeopardy federal biological opinion (151422SWR01SA5822:BSK) which considers the Federally and State endangered winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and the Federally and State threatened spring-run Chinook salmon (*O. tshawytscha*), and authorizes incidental take of the species and their habitats.

Pursuant to California Fish and Game Code Section 2080.1, the FRWA is requesting a determination that federal biological opinions 1-1-04-F-0224 and 151422SWR01SA5822:BSK are consistent with CESA. If the Department determines that the federal biological opinions are consistent with CESA, the FRWA will not be required to obtain an incidental take permit from the Department for the proposed project.

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication December 15, 2006
CESA CONSISTENCY DETERMINATION FOR
Joshua Tree Recreational Campground HCP
San Bernardino County

The Department of Fish and Game ("Department") received notice on November 20, 2006 that JAT Associates, Inc. proposes to rely on its consultation with the U.S. Fish and Wildlife Service ("Service") to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). JAT Associates proposes to construct and operate an "eco-friendly" recreational campground in San Bernardino County that will also restore and protect 300 acres of surrounding desert habitat. The construction activities will impact approximately 13.8 acres of desert tortoise (*Gopherus agassizii*) habitat.

On November 8, 2006, the Service issued an Incidental Take Permit (TE133476-0) to JAT Associates, Inc. which authorizes incidental take of the Federally and State threatened desert tortoise. The Incidental Take Permit requires JAT Associates, Inc. to implement a Habitat Conservation Plan that the Service approved in June 2006.

Pursuant to California Fish and Game Code Section 2080.1, JAT Associates, Inc. is requesting a determination that Incidental Take Permit TE133476-0, which requires JAT Associates, Inc. to fully implement the Habitat Conservation Plan, is consistent with the requirements of CESA. If the Department determines that the incidental Take Permit is consistent with CESA, JAT Associates, Inc. will not be required to obtain a separate permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

CESA No. 2080-2006-026-05

PROJECT: San Diego Creek Emergency Flood Control Capacity Project
LOCATION: San Diego Creek, City of Irvine, County of Orange
NOTIFIER: County of Orange, Resources & Development Management Department

BACKGROUND

The County of Orange Resources & Development Management Department (RDMD) removed sediment and vegetation from three in-line sediment basins in an effort to prevent flooding (Project). Project activities were authorized as an emergency by the County of Orange Board of Supervisors and the work was accomplished between December 17, 2003, and March 31, 2004. The basins are located within San Diego Creek between Michelson Avenue and Campus Drive, in the City of Irvine, Orange County. The Project was intended to restore the original design configuration of the basins and was necessary to prevent flooding of the Irvine Ranch Water District's Michelson Water Reclamation Plant. Inundation of this Plant could impede treatment of sewage from 40,000 residences and lead to a major discharge of sewage into upper Newport Bay Ecological Reserve. Other development in the vicinity could also have been subject to flooding. The basins,

numbered 1 through 3 are 250 feet wide with 3:1 side slopes, collectively 9,950 feet in length, and have a combined design storage capacity of approximately 368,500 cubic yards. It was estimated, however, that 41,000 cubic yards of sediment were removed from the basins during the Project.

The Project resulted in the removal of 11.2 acres of riparian vegetation consisting of 1.1 acres of mule fat scrub, 9.8 acres of willow riparian forest, and 0.3 acre of cattail marsh. This acreage included previously documented nesting habitat for least Bell's vireo (*Vireo pusillus bellii*, vireo), a species listed as endangered pursuant to both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (CESA) (Fish and Game Code § 2050 *et seq.*).

Because the Project had the potential to take a species listed under the ESA, the U.S. Army Corps of Engineers consulted with the United States Fish and Wildlife Service (USFWS). On October 19, 2006, the USFWS issued a Biological Opinion (1-6-06-F-3810.3) for the Project which concluded that the Project "... did not jeopardize the continued existence of the vireo. . ." The Biological Opinion describes the Project, including Project features developed to compensate for impacts to the vireo, and sets forth measures to mitigate any remaining impacts to the vireo and its habitat. On November 9, 2006, the USFWS amended the Biological Opinion to clarify that the referenced Mitigation Program is dated October 2, 2006; no other changes were made. On October 23, 2006, the Director of the Department of Fish and Game (DFG) received correspondence from RDMD requesting a determination pursuant to section 2080.1 of the Fish and Game Code that the Biological Opinion is consistent with CESA.

DETERMINATION

The DFG has determined that the Biological Opinion is consistent with CESA. The mitigation measures in the Opinion meet the conditions set forth in Fish and Game Code section 2081, subparagraphs (b) and (c), for authorizing the incidental take of CESA-listed species. Specifically, the DFG finds that the take of vireo was incidental to an otherwise lawful activity (*i.e.*, removal of sediment and vegetation to restore flood capacity), the mitigation measures identified in the Biological Opinion will minimize and fully mitigate the impacts of the authorized take of vireo, and the Project did not jeopardize the continued existence of the species. The mitigation measures in the Biological Opinion include, but are not limited to, the following.

1. Nest Avoidance: Active nests identified during monitoring were flagged and a 300-foot buffer, within which all construction activity was prohibited, was established around the nest location. The biological monitor enforced compliance with the established buffer areas.
2. Project-related impacts to riparian habitat used by the vireo will be offset by restoration, creation, and enhancement. Habitats will be restored or enhanced per the Mitigation Program dated October 2, 2006, at the Talbert Nature Preserve and Mason Regional Park. A total of 17.77 acres of willow riparian will be created at the Talbert Nature Preserve. An additional 1.39 acres of willow riparian and 4.25 acres of mulefat and Mexican elderberry will be created/restored at Mason Regional Park.
3. The County of Orange will assign an obligatory status to 13.5 acres of the otherwise voluntary giant reed (*Arundo donax*) abatement program element of Phase I of the Santa Ana River Habitat Mitigation and Monitoring Program, located in the Gypsum Canyon segment of the Santa Ana River.
4. The County of Orange will contribute money to existing cowbird trapping programs to provide additional cowbird traps at the off-site conservation areas identified above. Existing cowbird trapping programs are being implemented by the Nature Reserve of Orange County which would be able to run traps at Talbert and Mason Parks, and the Orange County Water District which would be able to run a trap at the Gypsum Canyon segment of the Santa Ana River. A detailed cowbird trapping program will be submitted to the Crops and USFWS for concurrence within 30 days of the issuance of the Biological Opinion.
5. The County of Orange Board of Supervisors passed two resolutions, signed on December 20, 2005, which provide conservation assurances and guaranteed revenues in perpetuity for the conservation areas at Talbert and Mason Parks, and the Gypsum Canyon segment of the Santa Ana River identified above for the benefit of the vireo.
6. The off-site conservation areas identified above will be permanently assigned to the San Diego Creek emergency Project and will no longer be available for future mitigation for vireo.
7. The County will work with the USFWS to ensure that the creation and restoration of the wetland habitats at Mason Regional Park and Talbert

Nature Preserve will be conducted in a way that will avoid adverse effects to vireo at these sites.

Based on this consistency determination, RDMD does not need to obtain authorization from the DFG under CESA for take of vireo that occurred in carrying out the Project, provided RDMD complies with the mitigation measures and other conditions described in the Biological Opinion. However, if the Project as described in the Biological Opinion, including the mitigation measures therein, changes after the date of the Opinion, or if the USFWS amends or replaces that Opinion, RDMD will need to obtain from the DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice
For Publication December 15, 2006
CESA CONSISTENCY DETERMINATION FOR
Tucker-Orr Subdivision
Butte County

The Department of Fish and Game ("Department") received a notice on November 16, 2006 that the City of Biggs proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the construction of a residential subdivision on a 20.7 acre parcel, including construction of roads and associated infrastructure. The project is located in the City of Biggs, Butte, County.

The U.S. Fish and Wildlife Service, on May 8, 2006, issued to the U.S. Army Corps of Engineers ("Corps"), a no jeopardy federal biological opinion (1-1-06-F-0104) which considers the Federally and State threatened giant garter snake (*Thamnophis gigas*), and authorizes incidental take of the species and 0.005 acres of its habitat, which exists on the project site within the main irrigation ditch.

Pursuant to California Fish and Game Code Section 2080.1, the City of Biggs is requesting a determination that federal biological opinion 1-1-06-F-0104 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, the City of Biggs will not be required to obtain an incidental take permit for the proposed project.

OFFICE OF ADMINISTRATIVE LAW

**REQUEST FOR PUBLIC INPUT
ANNUAL RULEMAKING CALENDAR
GOVERNMENT CODE 11017.6**

Each year all state government agencies with rulemaking authority are required to prepare a rulemaking calendar pursuant to section 11017.6 of the Government Code. The rulemaking calendar lists anticipated rulemaking activity by the agency for the coming year. The rulemaking calendar is non-binding. Section 11017.6 specifically allows agencies to adopt rules that were not listed in the rulemaking calendar if it is required by unanticipated circumstances.

The requirement to prepare a rulemaking calendar was established in 1982 and has not been amended since 1987. In 2000 the Legislature adopted section 11340.85 of the Government Code, which requires state agencies to post all their rulemaking activity on their web sites. The information that must be posted on the web pursuant to section 11340.85 is much more extensive than that included in the annual rulemaking calendar pursuant to section 11017.6. Use of the internet as a primary information source has, obviously, increased greatly since 1982.

The Office of Administrative Law is attempting to evaluate the public's current level of reliance upon the annual rulemaking calendar as a source of information about state agency rulemaking. If you have found that the annual rulemaking calendar continues to be a valuable source of information to you, please let us know through one of the following methods:

1. Send an e-mail message to staff@oal.ca.gov;
2. Send a note via fax to (916) 323-6826;
3. Leave a telephone voice message at (916) 323-6815; or
4. Send a letter to:

Office of Administrative Law
Rulemaking Calendar Survey
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Any information that you could provide on this subject would be greatly appreciated.

PROPOSITION 65

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(Proposition 65)**

**NOTICE OF INTENT TO LIST CHEMICALS
Additional Extension of Public Comment Period
December 15, 2006**

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) requires the Governor to publish, and update at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. The Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of Proposition 65.

On October 13, 2006, OEHHA published a notice in the *California Regulatory Notice Register* (Register 06, No. 41-Z) announcing the second extension of the public comment period related to OEHHA's intent to list *anthraquinone* under Proposition 65 as a chemical known to the state to cause cancer in accordance with the regulatory criteria in Section 12306 of Title 22 of the California Code of Regulations. The October 13 notice initiated a second 60-day public comment period which would have closed on December 19, 2006. OEHHA has received another request from an interested party seeking further extension of the comment period to allow for the submission of information from the National Institute of Environmental Health Sciences that may be pertinent to the listing consideration of *anthraquinone*. OEHHA hereby extends the public comment period for *anthraquinone* for 60 days to 5 p.m., **Tuesday, February 20, 2007.**

Written comments provided in triplicate, along with supporting information, may be submitted to:

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street
Sacramento, California 95814
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Fax No.: (916) 323-8803
Telephone: (916) 445-6900

Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: coshita@oehha.ca.gov. In order to be considered, comments must be received at OEHHA by 5:00 p.m. on Tuesday, February 20, 2007.

SUMMARY OF REGULATORY ACTIONS
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REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Diesel PM Control Measure Public Agencies and Utilities

In this regulatory action, the Air Resources Board adopts regulations establishing a diesel particulate matter control measure for on-road heavy-duty diesel-fueled vehicles owned or operated by public agencies and utilities.

Title 13
California Code of Regulations
ADOPT: 2022, 2022.1
Filed 12/06/06
Effective 01/05/07
Agency Contact: Alexa Malik (916) 322-4011

AIR RESOURCES BOARD

Mobile Cargo Handling Equipment at Ports

This action adopts emissions standards and an implementation schedule for mobile equipment used at ports and intermodal rail yards in order to reduce the adverse effects of toxic air contaminants resulting from use of the equipment, particularly diesel exhaust.

Title 13
California Code of Regulations
ADOPT: 2479
Filed 12/01/06
Effective 12/01/06
Agency Contact: Alexa Malik (916) 322-4011

AIR RESOURCES BOARD

Oceangoing Vessels 2005

This regulatory action adopts a new regulation and an airborne toxic control measure (ATCM) to reduce emissions of diesel particulate matter (PM), nitrogen oxides (NOx), and sulfur oxides (SOx) from auxiliary diesel engines and diesel-electric engines operated on ocean-going vessels within 24 nautical miles of the California baseline. The regulation and ATCM will apply to ocean-going vessels operating within "Regulated California Waters" and visiting California ports beginning January 1, 2007.

Title 13, 17
California Code of Regulations
ADOPT: 2299.1, 93118
Filed 12/06/06
Effective 12/06/06
Agency Contact: Alexa Malik (916) 322-4011

BOARD OF PSYCHOLOGY

Disciplinary Guidelines

This regulatory action revises and updates the Board's Disciplinary Guidelines which have previously been incorporated by reference.

Title 16
California Code of Regulations
AMEND: 1397.12
Filed 12/05/06
Effective 01/04/07
Agency Contact: Kathy Bradbury (916) 263-0712

CALIFORNIA HORSE RACING BOARD

Form of entries and Declarations

This amendment to section 1582 of Title 4 will allow associations to accept entries by facsimile, or any other electronic method deemed appropriate by the association, in addition to entries by telephone as currently exists in the regulation. It also will allow associations to determine whether written confirmation of such entries will be required. This change in the regulation will allow associations to establish practical practices and publish them pursuant to section 1437.

Title 4
California Code of Regulations
AMEND: 1582
Filed 12/05/06
Effective 01/04/07
Agency Contact: Harold Coburn (916) 263-6397

DEPARTMENT OF CONSERVATION
Distributor Administrative Fees

The Department of Conservation allows distributors to retain an administrative fee that is a certain percentage of the California Redemption Value (CRV) they must pay on beverage containers they sell in California. This fee is to cover the cost of preparing documents required by the Department of Conservation. The legislature changed this fee from 1% to 1.5% in an urgency bill this year effective September 30, 2006 (AB 3056). This action changes this percentage in the relevant regulations and also changes the reporting form required of the distributors to conform to the statutory change.

Title 14
California Code of Regulations
AMEND: 2305, 2310, 2320
Filed 12/05/06
Effective 12/05/06
Agency Contact: Cheryl Brown (916) 323-0728

DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Adult Institutions, Programs and Parole

The Department of Corrections and Rehabilitation is changing the title for Division 3, and Division 3, Chapter 1 to bring those titles into conformity to the changes made in Stats. 2005, S.B. 737, and are providing various editorial corrections in sections 3041.2, 3053, 3177, 3331, and 3375, title 15, California Code of Regulations.

Title 15
California Code of Regulations
AMEND: 3041.2, 3053, 3177, 3331, 3375
Filed 12/04/06
Effective 12/04/06
Agency Contact:
Claudia Hernandez (916) 358-2477

DEPARTMENT OF FOOD AND AGRICULTURE
Oak Mortality Disease Control

This is the certificate of compliance to permanently adopt an emergency regulation (06-0721-09E) that controls movement of "hosts" and "associated hosts" of oak mortality disease to protect California's agricultural industry and the environment.

Title 3
California Code of Regulations
AMEND: 3700(c)
Filed 12/06/06
Effective: 12/06/06
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF FOOD AND AGRICULTURE
Gypsy Moth Eradication Area

This regulatory action is the Certification of Compliance for an emergency action that was approved on 8-1-06. It adds San Mateo County to the list of counties proclaimed to be eradication areas for gypsy moth (*Lymantria dispar*). This provides authority for the state to perform control and eradication activities in San Mateo County against this seriously destructive pest.

Title 3
California Code of Regulations
AMEND: 3591.6
Filed 12/06/06
Effective 12/06/06
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF PESTICIDE REGULATION
Enforcement Response

This regulatory action specifies enforcement responses to be taken by the county agricultural commissioner (CAC) each time a violation occurs. CACs have joint authority with DPR in enforcing pesticide laws and regulations. Field enforcement is carried out by CACs under the supervision of DPR. By creating a violation classification system and enforcement response procedure, CACs will be following the same guidelines. Section 6128 specifies the appropriate enforcement responses for CACs to take for each violation.

Title 3
California Code of Regulations
ADOPT: 6128 AMEND: 6130
Filed 11/30/06
Effective 11/30/06
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

FISH AND GAME COMMISSION
Commercial Herring Fishery

These amendments concern the commercial Herring fishery and "establish fishing quotas, set the minimum mesh size for Tomales Bay, establish season dates and times, reduce vessel signage needed, specify issuance of permits by first class mail, modify several sections to correspond with Section 163.1 and correct the Herring Eggs on Kelp Permit Application number to correspond with the 2006-07 season application."

Title 14
California Code of Regulations
AMEND: 163, 164
Filed 12/01/06
Effective 12/01/06
Agency Contact: Sheri Tiemann (916) 654-9872

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN JULY 5, 2006 TO
DECEMBER 06, 2006**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

11/06/06 AMEND: 18216, 18421.1
11/03/06 AMEND: 1859.73.2
10/31/06 AMEND: 559.500, 559.501, 559.503, 559.504, 559.505, 559.507, 559.508, 559.509, 559.510, 559.511, 559.512, 559.513, 559.515, 559.516, 559.517
10/12/06 AMEND: 714
09/27/06 AMEND: 18754
09/07/06 AMEND: 21904, 21905
09/05/06 AMEND: 1859.2, 1859.76, 1859.83, 1859.163.1
08/23/06 AMEND: 1181.4
08/21/06 AMEND: 1859.2, 1859.70.1, 1859.71.3, 1859.78.5
08/15/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80
08/11/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, 1859.202, 1866
07/24/06 AMEND: 18944
07/06/06 AMEND: 575.1, 575.2

Title 3

12/06/06 AMEND: 3591.6
12/06/06 AMEND: 3700(c)
11/30/06 ADOPT: 6128 AMEND: 6130
11/16/06 AMEND: 3433(b)
11/13/06 AMEND: 3423(b)
11/08/06 AMEND: 3591.2(a)
10/27/06 ADOPT: 765 AMEND: 760.4, Article 3.5
10/19/06 AMEND: 3591.6(a)
10/12/06 AMEND: 3433(b)

10/12/06 AMEND: 3433(b)
10/12/06 ADOPT: 3424
10/06/06 AMEND: 3700(c)
10/06/06 AMEND: 3591.13(a)
10/05/06 AMEND: 3433(b)
10/05/06 AMEND: 3589
10/02/06 AMEND: 3591.6(a)
09/19/06 AMEND: 3433(b)
09/12/06 AMEND: 3591.12(a)
09/12/06 AMEND: 3406(b)
09/08/06 AMEND: 3423(b)
09/07/06 AMEND: 3433(b)
09/05/06 AMEND: 3406(b)
08/29/06 AMEND: 3433(b)
08/24/06 AMEND: 3433(b)
08/23/06 AMEND: 3591.12(a)
08/17/06 AMEND: 3591.19(a)
08/16/06 AMEND: 3433(b)
08/15/06 AMEND: 3700(c)
08/15/06 AMEND: 3700(c)
08/10/06 AMEND: 3591.6(a)
08/01/06 AMEND: 3424(b)
08/01/06 AMEND: 3591.6(a)
07/28/06 AMEND: 3591.2(a)
07/26/06 AMEND: 3700(c)
07/21/06 REPEAL: 1366
07/19/06 ADOPT: 6310 AMEND: 6170
07/18/06 ADOPT: 6960 AMEND: 6000
07/17/06 AMEND: 3591.6(a)
07/05/06 AMEND: 3591.6

Title 4

12/05/06 AMEND: 1582
11/22/06 AMEND: 1544 & 1658
11/16/06 ADOPT: 2422.1
11/03/06 AMEND: 10152, 10153, 10155, 10159, 10160, 10161, 10162
10/24/06 AMEND: 1486
10/16/06 AMEND: 1733
09/26/06 AMEND: 1976.8
07/19/06 AMEND: 12358, 12359
07/17/06 AMEND: 2240(e)

Title 5

11/13/06 AMEND: 18013, 18054
11/08/06 AMEND: 850, 851, 852, 853, 854, 855, 857, 858, 859, 861, 862, 863, 864, 864.5, 865, 866, 867, 870 REPEAL: 850.5, 880, 881, 882, 883, 884, 886, 887, 888, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 901
10/26/06 AMEND: 30023(c)
10/23/06 ADOPT: 11991, 11991.1, 11991.2

10/16/06	ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7	2303.21, 2303.22, 2303.23, 2303.24, 2303.25
09/29/06	ADOPT: 19833.5, 19833.6 AMEND: 19815, 19816, 19816.1, 19819, 19824, 19828.1, 19831	10/16/06 ADOPT: 2194.9, 2194.10, 2194.11, 2194.12, 2194.13, 2194.14, 2194.15, 2194.16, 2194.17
09/15/06	REPEAL: 18074.1(b), (c), (d), 18074.3, 18074.4, 18074.5, 18074.6	10/10/06 AMEND: 2498.4.9
08/30/06	ADOPT: 15566, 15567, 15568 REPEAL: 15569	10/03/06 AMEND: 2498.5
08/15/06	AMEND: 1030.7, 1030.8	10/02/06 AMEND: 2248.4, 2249.1, 2249.2, 2249.6, 2249.7, 2249.8, 2249.9, 2249.10, 2249.11, 2249.12, 2249.13, 2249.14, 2249.15, REPEAL: 2248.11, 2248.12, 2248.19
07/31/06	ADOPT: 1043.2, 1043.4, 1043.6, 1043.8, 1043.10, 1047, 1048 AMEND: 1040, 1041, 1043, 1044 REPEAL: 1042, 1045, 1046	09/20/06 AMEND: 2318.6, 2353.1
07/27/06	ADOPT: 40500.1, 40511, 40512, 41020 AMEND: 40100	09/14/06 AMEND: 3528
07/25/06	ADOPT: 1207.1, 1207.2 AMEND: 1204.5	08/29/06 AMEND: 2699.6600
07/21/06	ADOPT: 15566, 15567, 15568, 15569	08/28/06 ADOPT: 803, 810, 810.1, 810.2, 810.3, 810.4, 810.5, 810.6, 810.7 AMEND: 800, 801, 802, 804, 806, 807
07/14/06	ADOPT: 51016.5, 55183	08/08/06 ADOPT: 3583 AMEND: 3500, 3525, 3527, 3528, 3541, 3542, 3543, 3544, 3563, 3568, 3603, 3622, 3668, 3681, 3682, 3761 REPEAL: 3541
Title 8		08/02/06 ADOPT: 2790.7
11/14/06	AMEND: 6368	08/01/06 ADOPT: 5370, 5371, 5372, 5373, 5374, 5375, 5376, 5377
11/14/06	AMEND: 3482, 5161, 5178	07/28/06 AMEND: 2698.52(c), 2698.53(b), 2698.56(c)
11/08/06	AMEND: 17000 Appendix	07/26/06 ADOPT: 5280, 5281, 5282, 5283, 5284, 5285, 5286
11/02/06	AMEND: 3650	07/24/06 ADOPT: 2498.6
10/18/06	AMEND: 9768.5, 9768.10, 9788.11, 9788.31, 9789.33	07/18/06 AMEND: 2498.5, 2498.6
09/29/06	AMEND: 341, 341.1	07/14/06 AMEND: 2632.5, 2632.8, 2632.11
09/25/06	AMEND: 4920	07/12/06 AMEND: 2697.6
09/21/06	ADOPT: 10001, 10002, 10003	07/12/06 ADOPT: 2190.20, 2190.22, 2190.24
09/19/06	ADOPT: 1532.2, 5206, 8359 AMEND: 5155	07/12/06 AMEND: 2498.4.9
07/31/06	AMEND: 5154.1	07/10/06 ADOPT: 2509.21
07/28/06	AMEND: Subchapter 4, Appendix B, Plate B–1–a	Title 11
07/27/06	ADOPT: 3395	10/13/06 AMEND: 30.5
07/19/06	ADOPT: 10004, 10005 AMEND: 10133.53, 10133.55	10/13/06 AMEND: 30.1
07/18/06	AMEND: 3270	08/16/06 ADOPT: 1084
Title 9		07/27/06 AMEND: 1001, 1005, 1008, 1011, 1014, 1015, 1018, 1052, 1053, 1055, 1056, 1081 and Procedures D–1, D–2, D–10 E–1, F–1, and F–6
11/21/06	AMEND: 9100	07/12/06 AMEND: 999.2
09/25/06	ADOPT: 3400	Title 13
Title 10		12/06/06 ADOPT: 2022, 2022.1
11/15/06	AMEND: 2697.6, 2697.61	12/01/06 ADOPT: 2479
11/09/06	AMEND: 2498.5	11/13/06 AMEND: 2445.2(a)
11/09/06	AMEND: 2534.27, 2534.28	11/13/06 AMEND: 2111, 2112, 2441, 2442, 2444.2, 2445.1, 2445.2, 2446
10/24/06	ADOPT: 2303, 2303.1, 2303.2, 2303.3, 2303.4, 2303.5, 2303.6, 2303.7, 2303.8, 2303.9, 2303.10, 2303.11, 2303.12, 2303.13, 2303.14, 2303.15, 2303.16, 2303.17, 2303.18, 2303.19, 2303.20,	10/30/06 ADOPT: 118.00
		10/27/06 AMEND: 423.00

10/16/06 AMEND: 1956.8, 2404, 2424, 2425, 2485
 10/05/06 AMEND: Section 1
 09/14/06 AMEND: 25.06, 25.07, 25.08, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21, 25.22
 09/11/06 ADOPT: 2467.8, 2467.9 AMEND: 2467, 2467.1, 2467.2, 2467.3, 2467.4, 2467.5, 2467.6, 2467.7, Incorporated Documents
 REPEAL: 2467.8, Incorporated Test Method 512
 09/07/06 AMEND: 1956.1, 1956.8, 2023.1, 2023.4
 08/24/06 AMEND: 28.22
 07/28/06 AMEND: 154.00

Title 13, 17

12/06/06 ADOPT: 2299.1, 93118

Title 14

12/05/06 AMEND: 2305, 2310, 2320
 12/01/06 AMEND: 163, 164
 11/27/06 ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72
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